

AMENDED IN ASSEMBLY JUNE 9, 2004

AMENDED IN SENATE MAY 25, 2004

AMENDED IN SENATE MAY 11, 2004

AMENDED IN SENATE APRIL 12, 2004

**SENATE BILL**

**No. 1492**

**Introduced by Senator Dunn**

February 19, 2004

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An act to add Chapter 6.5 (commencing with Section 56.32) to Part 2.6 of Division 1 of the Civil Code, ~~and to add Chapter 6.5 (commencing with Section 1112) to Part 3 of Division 2 of the Labor Code, relating~~ relating to confidential information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as amended, Dunn. Confidential information.

~~(1) Existing~~

*Existing* law prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding any patient of the health care provider or enrollee or subscriber of the health care service plan without first obtaining an authorization, except as specified. Existing law makes a violation of this provision, and related provisions relating to the handling of confidential medical information, subject to administrative, civil, and criminal penalties.

This bill would prohibit a health care business, as defined, from transmitting individually identifiable health information, as defined, to a site outside the United States, unless specified notice and authorization requirements are satisfied. This bill would create a

state-mandated local program by imposing the above-described penalties on persons who violate this provision.

~~(2) Existing law, by executive order of the Governor, establishes the Office of Homeland Security.~~

~~This bill would prohibit the performance of any work involving information that is essential to California's homeland security at a worksite outside of the United States, except with respect to specified transactions.~~

~~(3) The~~

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.*

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6.5 (commencing with Section 56.32)  
2 is added to Part 2.6 of Division 1 of the Civil Code, to read:

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4 CHAPTER 6.5. DISCLOSURE OF MEDICAL INFORMATION BY  
5 HEALTH CARE BUSINESSES

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7 56.32. (a) For purposes of this chapter, a "health care  
8 business" means any business organization, association, or  
9 venture established to make a profit, or any private, nonprofit  
10 organization, that collects or retains individually identifiable  
11 health information about consumers in relation to medical care,  
12 including but not limited to, all of the following:

13 (1) Hospitals.

14 (2) Physicians and other health care providers.

15 (3) Health maintenance organizations.

16 (4) Medical partnerships.

17 (5) Emergency medical transportation companies.

18 (6) Medical transcription companies.

19 (7) Banks that collect or process medical billing information.



(8) Any subcontractor or potential subcontractor of an entity described in paragraphs (1) to (7), inclusive.

(b) For purposes of this chapter, “individually identifiable health information” has the same meaning as in the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191).

56.33. No health care business shall transmit individually identifiable health information to a site outside the United States unless all of the following apply:

(a) The health care business discloses to the consumer that his or her individually identifiable health information may be transmitted to a site outside the United States.

(b) The health care business obtains a consent acknowledgement form from the consumer, before a consumer relationship is established, that his or her individually identifiable health information may be transmitted to a site outside the United States.

(c) The consent of the consumer has been granted or renewed on at least an annual basis.

(d) The consumer may revoke his or her consent in writing to the health care business at any time.

56.34. A health care business shall utilize a form, statement, or writing to obtain consent to transmit individually identifiable health information to a site outside the United States. The form, statement, or writing shall meet both of the following criteria:

(a) Dated and signed by the consumer.

(b) Clearly and conspicuously discloses all of the following:

(1) By signing, the consumer is consenting to the transmission of his or her individually identifiable health information to a site outside the United States.

(2) The consent of the consumer must be renewed on at least an annual basis.

(3) The consumer may revoke his or her consent at any time.

(4) The procedure by which consent may be revoked.

~~SEC. 2. Chapter 6.5 (commencing with Section 1112) is added to Part 3 of Division 2 of the Labor Code, to read:~~

~~CHAPTER 6.5. CONFIDENTIAL INFORMATION~~

~~1112. (a) No work involving information that is essential to homeland security shall be performed at a worksite outside of the United States.~~

~~(b) Subdivision (a) shall not apply where the expertise or material necessary to perform the work is unavailable in the United States.~~

~~1113. For purposes of this chapter, information essential to homeland security means either of the following:~~

~~(1) Information necessary to enhance the capability of state and local jurisdictions to prepare for and respond to terrorist acts, including, but not limited to, events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices.~~

~~(2) Information relating to physical and information infrastructures, including, but not limited to, telecommunications, energy, financial services, water, and transportation sectors.~~

~~SEC. 3.~~

*SEC. 2.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.